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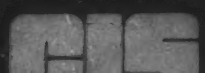

NOMINATION OF RICHARD T. KENNEDY

HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

NOMINATION OF RICHARD T. KENNEDY, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR AT LARGE

DECEMBER 7, 1982

Printed for the use of the Committee on Foreign Relations

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NOMINATION OF RICHARD T. KENNEDY

TUESDAY, DECEMBER 7, 1982

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, at 10:05 a.m., in room 4221, Dirksen Senate Office Building, Hon. Charles H. Percy (chairman of the committee) presiding.

Present: Senators Percy, Helms, Hayakawa, Mathias, Pell, Biden, Zorinsky, and Tsongas.

The CHAIRMAN. Having Richard Kennedy here is not an unusual experience. He has appeared with this committee and before this committee many times.

We are pleased today to receive your testimony, Secretary Kennedy, on your nomination to be Ambassador at Large and Special Adviser to the Secretary of State for Nuclear Non-Proliferation Policy and Nuclear Energy Affairs.

Secretary Kennedy brings a wealth of experience in the nuclear nonproliferation area to this job. As a Nuclear Regulatory Commission Commissioner and now as the Under Secretary of State for Management, he has been at the center of nonproliferation policymaking.

In the first 2 years of this administration, I and other members of this committee have repeatedly voiced our concern for this administration's commitment to preventing nuclear weapons spread. The absence of a senior official who would devote full time to nuclear nonproliferation was part of the problem.

I, therefore, was extremely pleased to learn of Secretary Kennedy's appointment and particularly pleased that Secretary Shultz took a very personal interest in this issue, following one hearing where I did express deep concerns about how it was possible to really run the management, the day-by-day running of the State Department, and still work on what I consider the paramount issue faced by mankind today—nuclear nonproliferation.

It is a complex problem and we will now have a distinguished Ambasador at Large who will provide a focal point for policymaking and devote full time to this single problem which is one of the most complex and difficult problems.

I remember, Secretary Kennedy—and I am sure that Jerome Van Gorkom will remember—when I ran for the Senate for the first time in 1966, I kept going over the State saying, "The nuclear issue is the paramount issue. That is the issue that is the most important for all of us and that I will devote a lot of my time to."

There just was not the slightest interest in the issue at the time. The Vietnam war was all that anyone was concerned about and, hor-

rible as that was, 50,000 American lives lost, still, this is now the paramount issue and 16 years later you do not have any trouble getting people together to talk about nuclear proliferation.

In my own community on the North Shore of Chicago, in the village of Winnetka, we had on a Sunday afternoon one of the largest, most jammed-packed meetings in a large church that I have ever had on the North Shore of Chicago—standing room only—for a program on nuclear weaponry.

In my opinion, the threat of nuclear weapons has spread and continues to grow. Each year more and more states gain access to the materials and know-how for bomb making. Given current levels of international tension, some of these countries could have the motivation for using this access to build weapon arsenals.

I must also take note of the ominous trends in international transfers of sophisticated delivery systems—particularly advanced aircraft—which could turn these weapons into a deadly threat to world peace by aiding the development of a usable weapons capability.

In managing these and other aspects of the proliferation problem, the Ambassador at Large must be a strong advocate of nuclear nonproliferation interest. It should not be his job to promote international nuclear commerce. There are a great many in this administration that are already doing this. We do not need salesmen, the private sector does that. Our job is to implement and carry out the law and to establish and set policy in the field of nonproliferation. Certainly, it is also the job of the Ambassador at Large to make sure these concerns are more closely integrated with other elements of energy, foreign, and security policy.

If, Secretary Kennedy, you can do this—and I am confident you can—you will play a major role in making the world a safer place for all of us, especially for our children and our grandchildren.

Just a personal comment, I can well remember the time that the first Chairman of the Atomic Energy Commission, David Lilienthal, appeared before our Governmental Affairs Committee to give testimony on the Nuclear Non-Proliferation Act [NNPA] that I authored with Senator Glenn, and we were asking for comments on it.

The former Chairman of the Atomic Energy Commission said, "I am glad I am as old as I am. I would not want to be the age of our children or grandchildren, the world is too dangerous a place." That made a deep impression on me.

When most of us in this room were born, no one could even imagine the destructive power of nuclear weapons, there was no such discussion. That chain reaction did not take place on my campus at the University of Chicago until many years later.

When my first child was born, the United States was just beginning to develop an atomic bomb. By the time my first grandchild was born, five nations had joined the nuclear club. By the time I have great-grandchildren, I would not be surprised if a dozen or more nations—including some with unstable governments—have these weapons. Where will all this lead?

This is something that worries all of us terribly. It is worrying the American public and it is worrying populations around the world. I know personally I am going to continue to carry out the pledge I

made in my first campaign 16 years ago, I want to keep this as a paramount responsibility of my own.

I am very happy to share it with someone as distinguished as you and I know that you have a task of unusual importance ahead of you. We will certainly provide support and help in every way we possibly can in the position that you will be taking up.

I will be very happy to have you make any comments or statements that you care to make now.

[Mr. Kennedy's biographical sketch follows:]

BIOGRAPHICAL SKETCH OF RICHARD THOMAS KENNEDY

Office Address: 2202 C Street, N.W., Washington, D.C.
Born: December 24, 1919.
Legal Residence: 2510 Virginia Avenue, N.W., #705–N, Washington, D.C.
Marital Status: Married.
Family: Wife—Jean Drew Martin.
Home Address: 2510 Virginia Avenue, N.W., #705–N, Washington, D.C.
Education: Harvard University, 1953, M.B.A.; University of Rochester, 1941, B.A; National War College, 1965: U.S. Army Command & General Staff College, 1959.
Language Ability: French (Fair).
Experience: Non-Government: Consultant, Pacific-Sierra Research Inc. (Santa Monica, Calif); Consultant, International Energy Associates Ltd. (Washington, D.C.)
Government: Under Secretary of State for Management, 1981–1982; U.S. Representative to the IAEA, 1981; Commissioner, Nuclear Regulatory Commission, 1975–1980; Deputy Assistant to President for NSC Planning, 1973–1975; Director, Staff Planning & Coordination NSC; Senior Member NSC Staff, 1969–1973; International Security Affairs, Office Assistant Secretary of Defense, 1965–1969; Army General Staff, 1962; Planning & Financial Management Advisor, Ministry of War, Iran (U.S. Army), 1959–1961; Alternate U.S. Representative, General Conference of the IAEA, 1967 and 1969; Thirty years service, U.S. Army (retired 1971) Colonel.

STATEMENT OF HON. RICHARD T. KENNEDY, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR AT LARGE

Mr. KENNEDY. Thank you, Mr. Chairman. I greatly appreciate this opportunity to appear before you in connection with this nomination.

In his July 1981 statement on nuclear nonproliferation, President Reagan emphasized that preventing the spread of nuclear explosives to additional countries is one of the most critical challenges facing this Nation. His view on the issue, Senator, I know is precisely the same as yours.

Carrying forward the commitment of all administrations over the past 35 years, he set forth a policy framework designed to achieve that objective. Over the past year and one-half, we have been working to implement those basic policies.

President Reagan now has honored me by nominating me to be Ambassador at Large with responsibility for nuclear nonproliferation matters. The President's decision is designed to bring our efforts into sharper focus, insuring the high-level attention and energetic action which this vital goal demands. In this regard, I shall act as his special representative, representing him and the Secretary of State in discussions and negotiations on nonproliferation matters with other governments; in testimony before the Congress and in public expressions of the administration's policy aims and efforts.

If confirmed to this new post, I also will continue to serve as the U.S. Representative to the International Atomic Energy Agency [IAEA] in Vienna, a post to which I was appointed on August 4, 1981, with Senate confirmation.

The President is confident that, working together, the executive branch and the Congress can deal with the threat to international peace and American security posed by the potential spread of nuclear explosives.

I want to emphasize clearly and unequivocally that this administration—President Reagan, Secretary Shultz—fully endorse and actively support the goal of limiting the spread of nuclear weapons. And I want to underscore, Mr. Chairman, my personal commitment to that goal.

We are committed to strengthening the international regime of nonproliferation norms, institutions and controls. This will require the support of our allies and friends, support from nuclear supplier nations and developing countries alike. To win that support, we need to explain our policy to the international community and to demonstrate that our common security demands require concerted action toward shared goals.

We must work to reduce the motivations that might lead non-weapons states to seek these weapons. We must vigorously promote regional security arrangements and encourage adherence to international agreements such as the Non-Proliferation Treaty [NPT] and the Treaty of Tlatelolco, under which countries solemnly renounce the use of nuclear weapons.

We must continue to oppose the spread of sensitive nuclear material, equipment or technology, particularly where there is a risk of proliferation. This continues a national policy which began with President Truman in the earliest days of the nuclear era and has been pursued by every subsequent administration.

We also must reestablish our country as a reliable supplier, a nuclear trading partner, under effective safeguards and where there is no proliferation risk.

The United States no longer possesses a nuclear monopoly and we cannot dictate other countries' nuclear energy choices. Our challenge now is to work with other nations in a reinvigorated spirit of cooperation, to insure that the world's nations are able to realize the peaceful promise of nuclear energy while controlling its dangers. In pursuing this strategy, however, let me assert unequivocally, we will never compromise our nonproliferation principles for commercial or economic advantage.

If confirmed in this most important post, Mr. Chairman, I intend to make every effort to keep the Congress informed of both the progress we make and the difficulties we are sure to encounter. I will consult fully and frequently to seek the counsel of the Members. Your counsel, your help and your critical judgment will be sought in this vital undertaking.

Mr. Chairman, nuclear nonproliferation is not an empty slogan or just another program, as you so well noted. To me, the need to prevent the further spread of nuclear weapons is a deeply held conviction and a vital concern, one that is necessarily intertwined with many other elements of our foreign policy.

It vitally affects our own national security and the well-being of all nations on Earth. On the goals, there can be no dispute. We must use our own resources and our great moral authority in a positive and creative way to enhance international mechanisms and institutions so that nonproliferation will be a fact of life in our times, not just some unrealized dream.

To succeed, we must have a shared perception of the problems and dangers and a shared commitment to address them. For if we fail in this endeavor, sir, our fragile world order will be much in jeopardy, and the frightful possibility of a nuclear holocaust could in fact be increased. Clearly, this is a case where we simply must succeed.

Mr. Chairman, this concludes my formal statement. I will be happy to respond to your questions. Thank you.

The CHAIRMAN. Thank you very much, Secretary Kennedy.

Because the record will be read by absent members—we are having trouble with committee meetings during the course of this lameduck session—I would like to put a few questions to you that may be redundant in view of our conversations together but would, I believe, strengthen the record.

I have mentioned in the past my concern that though I can find in the administration a great many advocates of nuclear power—nuclear energy and so forth, and nuclear weaponry for ourselves—there did seem to be somewhat of an imbalance and there was no one that you could really look to—one strong person—who is a real advocate for nonproliferation.

Do you look upon yourself as that person now in the administration, which certainly the Secretary led me to believe? He considered that you would be the person that would speak on this issue and forcefully advocate our nonproliferation policy.

Mr. KENNEDY. This is precisely my role, Mr. Chairman, and it is a role which extends beyond the limits of the Department itself. My role will encompass the responsibility for integrating, pulling together, organizing if you will, in a single and comprehensive whole our nonproliferation policy across the Government.

The CHAIRMAN. Are you concerned, as I am, about the damage that has been done or could be done to the International Atomic Energy Agency, and do you feel that it needs strengthening rather than being further weakened?

Mr. KENNEDY. Mr. Chairman, my first direct association with that Agency began in 1975, in the relative near past. But it is an Agency to which I have given considerable attention and with which I have done considerable work over the years.

I am convinced that, as we believed when the Agency was created—much, by the way, through our own initiative, the United States—much as was the case when the Agency was created, it had a twofold responsibility. It is a two-sided bargain. The aim was to make it possible, for the benefit for mankind, for the peaceful uses of nuclear energy to be realized, but under effective controls and safeguards to assure against its misuse.

That role, that responsibility, is ever present and is as important today as when the Agency was created. Thus, in my view it may be one of the most important international agencies that we have today.

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The role that we have now—as you know, we are undergoing a reassessment of that role—we visualize our role as being one of hopefully reinvigorating the Agency; finding ways to reestablish the commitments which the founding members of the Agency brought to it, and extending that commitment across all of the membership. For the Agency is, after all, the sum of its members.

Our task, then, is to see if we can do that. We are willing to undertake that task with our friends, allies, and trading partners and, indeed, like-minded nations all over this world.

The CHAIRMAN. I have expressed deep concern to some member nations and their governments about the politicizing of this Agency. Of all agencies to pick to be politicized, I should think in the interests of mankind, this is the worst one to do that. And, of course, the most recent example is the illegal and unjustified rejection of Israel's credentials to the IAEA General Conference. I agreed with the administration's assessment that the vote on Israel's credentials represented a very ominous trend, and we had to put a stop to that. We effectively did.

Is it true that Israel is continuing its IAEA activities, is still a full-fledged member of IAEA, and will be right through this session until September?

Mr. KENNEDY. Yes, sir, that is correct. Israel is a full, participating member of the Agency, except as to certain technical assistance, a very minor amount, which it had previously received but which in 1981 was suspended by the Agency, by the General Conference of the Agency.

But for all practical purposes, Israel is and will continue to be a full, participating member. The question of credentials will arise again for Israel only at the next General Conference, scheduled for October of 1983.

Meanwhile it is our intention to see that this question does not arise—not just for Israel but for member states as a general proposition, for our principle is that universality is absolutely essential if this Agency is to be able over time to accomplish its worldwide purposes.

The CHAIRMAN. Considering how strongly the members of this committee feel about that, if at any time the chairman, the ranking member and other members deeply interested in this issue—such as Senator Glenn—could be helpful to you in expressing a united front on this with every member country, we would be happy to do so and would be pleased to join with you.

Do you see, as I have—being concerned about an action taken by the Appropriations Committee recently—a danger, a real danger of weakening the IAEA safeguards in the Appropriation Committee's decision to withhold funds from the Agency, despite the fact that Israel continues to be a member in full standing of IAEA because of the U.S. protests?

Mr. KENNEDY. Mr. Chairman, I think two considerations come up here.

One, as you know, when the executive branch elected to move toward its reassessment, we then suspended payment to the Agency and indicated only upon the completion of that reassessment would we then determine the nature and extent of further payment.

That in no sense implied either that we did not intend at some point to return to full participation in the Agency, nor did it imply that in any event we would not at some point wish to make the payments and contributions which we normally would be proposing to do. So, that is one consideration.

The Appropriations Committee in its action to zero out, to delete, the money for voluntary contributions to the Agency in 1983 makes the task much more difficult and indeed, I would say I think unwittingly, inadvertently—certainly not intentionally—would tend to have a weakening effect, for a very large percentage of those funds would be for the safeguards programs of the Agency which are of great importance to the United States from a security point of view.

The CHAIRMAN. Is the administration now making an assessment of our continued participation in IAEA?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. When do you expect to have that assessment finished?

Mr. KENNEDY. We began the assessment almost immediately after our departure from the General Conference in September. We would hope that it could be concluded in the relatively near future and, although I think perhaps it is too early to say in a conclusive way, we would hope that that assessment would point the way to some strengthening steps which could be taken which would make our further and continued participation in the Agency an important and a useful contribution.

The CHAIRMAN. Do you feel that the administration's actions have successfully defused efforts to politicize the IAEA and other U.N. technical bodies?

Mr. KENNEDY. I think it would be too much to say that we have been wholly successful in this regard. What we have accomplished, Senator, is that we have focused attention on a matter which was beginning to reach a point which would have seriously in the future denigrated the ability of the Agency to accomplish its basic functions, its charges and responsibilities.

We think we have done that. We are confident that we have done that because for a considerable time now we have been approached by friends, like-minded countries, who have come to sit down with us to share their views with us and we with them on this problem. There is a very substantial—very substantial—unanimity of view here.

Therefore, we think that the scene is ready, the stage has been set now for that kind of reinvigoration, rededication, to the principles on which the Agency was founded, which will make it possible to go into its next quarter century as it did the first.

The CHAIRMAN. This committee has urged in the past and I certainly have, that we give high priority in our discussions with Third World countries, the developing world, that there is a correlation in our law between those who receive assistance and aid from the United States and those who are working simultaneously toward developing a nuclear capability.

There have been concerns expressed about certain nations in Latin America that may be moving in this direction.

Do you happen to know whether this was a matter of high priority in the bilateral discussions that we had during the Presidential visit to Brazil, for instance?

Brazil has been talked about as a country that might at some point want to develop this capability. Have we made our position very clear at the highest levels?

Mr. KENNEDY. I think there is no question that our view on this is very well known.

If I may, Senator, let me suggest that here is a very good example of where dialog, the opportunity to actually sit down and discuss these issues not in a directive sense but rather in a genuine sense of cooperation, focusing on the fundamental concern that we all share that nuclear weaponry not be spread further; that it is important to the security of all of us, not just us in the United States but to all, that the spread of nuclear weapons cease.

Now, if we can develop a climate in which we can sit down reasonably, man to man, and talk about these issues—and we think we can, and we are laying the groundwork now to do so. I know that for example that as a fallout, as a result of the President's most recent visit, I anticipate undertaking some discussions in Brazil to that very end.

The CHAIRMAN. And you do know the discussions that were carried on. Were they taken up directly by the President?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. And the conversations were to your satisfaction as an advocate of nonproliferation, adequate for the occasion and emphasizing strongly enough the very high priority that we place on this issue?

Mr. KENNEDY. I have no doubt of that, Senator.

The CHAIRMAN. I think we would, the next time we meet in classified session, appreciate being briefed on those conversations.

With respect to Argentina, another country that has been of express concern in this area, when the United States decided to support Argentina in the recent U.N. vote on the Falklands negotiations, were nonproliferation concerns a factor at all, to your knowledge? In other words, did we bring up our concerns about Argentina's nuclear program when we talked to them about other issues of concern to them? In some way, these two issues are interrelated.

Mr. KENNEDY. I think they are related. I do not think that that is the case, that the two issues were directly linked and there was discussion.

Let me say as to the Argentine situation, again I intend in the very near future, over the coming months if confirmed, to undertake a series of discussions with Argentina. I have visited Argentina in the past while I was still a member of the Nuclear Regulatory Commission and had very useful discussions.

There is no dobut that we had deep differences in philosophy but there were also deep commitments, certainly stated commitments, to the principle that nuclear weaponry is not a desirable course to follow.

I think our task here is to build upon that kind of attitude and see how far we can then advance it in our mutual interest. That is what we intend to do.

The CHAIRMAN. I would like to discuss Pakistan, and again I know these are sometimes delicate issues. But it is a matter of public concern today, particularly in the United States.

Did you see, or were you briefed on Jack Anderson's ABC telecast this morning, the comments he made around 7:10 this morning?

Mr. KENNEDY. No, sir, I am sorry, I was not.

The CHAIRMAN. You have not been briefed on that?

Mr. KENNEDY. No, I have not.

The CHAIRMAN. The entire commentary by Jack Anderson was devoted to Pakistan and President Zia's present visit.

Mr. KENNEDY. I read his column this morning, but it had to do with other matters.

The CHAIRMAN. Yes. Well, he laid it right on the line, talked about intelligence reports; talked about Pakistan moving ahead with a nuclear weapons program. He even anticipated what the Foreign Relations Committee would be asking him today on this subject when we have coffee with him.

I am wondering if a microphone is some place in my office. When I heard this this morning, I was astounded.

But I wonder if you could tell us about our feelings on Pakistan because it is being so publicly discussed—all sorts of news columns about what their program is. The United States is providing a $3.2 billion package of aid to Pakistan. There were major stories this morning about F–16 shipments to Pakistan. All of this has been in part to discourage a nation that seemed to be seeking security through a weapons program.

Would you be talking with President Zia while President Zia is here, as the senior official in the adminstration on nuclear nonproliferation issues, considering that this has been a matter of very high priority for the administration in our relationship with Pakistan?

Mr. KENNEDY. I doubt that I will personnally be talking with President Zia, although I was at a meeting yesterday with Secretary Shultz and President Zia, and the party with him.

But I can assure you that the question is very much on the agenda for discussion and will be discussed, as I understand it, by the President.

The CHAIRMAN. Well, it is "the" single most important area of questioning I will get into today. I am certain that President Zia would expect this. He knows enough about the Senate and so does the distinguished Foreign Minister Yaqub Khan—he is a former ambassador. He can anticipate that when he is coming over for a cup of coffee, he is also coming over for a very intensive discussion on this issue. We will be discussing it with him.

And considering it is a major agenda item, I would hope that you could meet President Zia while he is here. I would strongly recommend to him that he meet with you if time can be found for it.

Are you satisfied with Pakistan's assurances that it is moving away from and has no intention of acquiring nuclear weapons? If so, why; and if not, why not?

Mr. KENNEDY. We of course have been given very strong assurances. These assurances have been repeated publicly by President Zia. We are hopeful that indeed these assurances are being carried out. These assurances are given by a head of state to another. Those are solemn assurances indeed.

Needless to say, we are working with the Government of Pakistan on a continuing basis, looking to assuring against misuse of nuclear technologies which they have and which they have deployed.

Moreover, we are continuing to "encourage" the International Atomic Energy Agency to continue working toward the establishment of the most effective safeguards possible in Pakistan.

Let me say in that connection we, as the IAEA is, are encouraged by the fact that Pakistan has moved rather more positively over recent months since we have been having discussions in respect to their on-line fueled reactor at Kanupp. It was the subject, as you recall, of the Director General's statement that they were concerned about the possibility that—well, they were concerned that they could not determine that a diversion might not have occurred. They were not asserting that it had. They were simply indicating that the safeguards on the reactor were at the time inadequate to the task.

This has been in very large measure, almost entirely, corrected, and the last details are only now being worked out to make certain that the reactor is fully safeguarded and the Agency will be satisfied. This is a very hopeful sign, we believe.

The CHAIRMAN. Could you refresh my memory on how many countries have now signed, ratified, the Non-Proliferation Treaty? Does staff know how many?

Mr. KENNEDY. I cannot remember the precise number.

The CHAIRMAN. 112 or 113 is the staff's guess.

Mr. KENNEDY. I thought perhaps even more. May I insert the precise number?

The CHAIRMAN. We will leave the record open so we can put the precise number in.

[The information referred to follows:]

There are currently 119 parties to the Nuclear Non-Proliferation Treaty of 1968. This includes three nuclear weapons states, the United States, United Kingdom, and the Soviet Union, and 116 non-nuclear weapons states.

Mr. KENNEDY. Let me say, Senator, that in that connection we are devoting a great deal of effort in respect to all the countries which have not signed, to encourage them to do so. In every discussion we have with them this is an item which is in the front rank of those discussions.

The CHAIRMAN. Well, let us just say that roughly well over 100 nations of the world are really looking to us to help enforce and see that the pedges of nonproliferation that have been made are carried out, and that nations who are not signatories to it will become signatories to it.

That responsibility rests right on your back. Obviously, with as many reports as we have had about Pakistan's program, all public reports right up through this morning—newspaper articles all over—indicate that they are intending to go ahead.

You have used the words that, "We have been given every assurance," and you have expressed the hope. I just have to put to you the $64 question, then: Are you satisfied that these assurances are adequate?

Can you rest comfortably that Pakistan is not proceeding at all, and is this a matter of very high priority with you? Is Pakistan near the top of the list?

Mr. KENNEDY. We have, as you know, Senator, been working very closely with Pakistan many months now to continually tighten up those assurances. They have been extended and publicly restated by President Zia.

I can assure you that it is a very high priority indeed—perhaps the highest.

The CHAIRMAN. For the record, I would like to assure my colleagues that, having met with you as recently as yesterday in the nonproliferation area, it is a very high priority item with you and I have every confidence that every step will be taken to see that the law is enforced and that there is no question whatsoever in Pakistan's mind—or any other country's—as far as we are concerned, that this is a matter where the executive branch and the legislative branch stand solidly together.

I have publicly expressed concerns, as have the chairman of our Subcommittee on Africa, Senator Kassebaum and Senator Tsongas, about nuclear trade and dual use exports such as Helium-3 and hot isostatic presses, even when these exports can be justified technically.

There are important foreign policy considerations such as the likelihood that other African countries, many of whom feel threatened by South Africa, would hold the United States culpable when South Africa does—if it does—acquire nuclear weapons, particularly if we sell dual-use equipment.

Has the administration established any limits on dual-use nuclear trade with South Africa? What role, if any, does such dual-use nuclear trade play in the policy of constructive engagement with the South Africans?

Mr. KENNEDY. First, Senator, let me say that if there is a genuine, serious proliferation risk, dual-use items simply would not be considered for export. That is the first element of policy.

There are those cases in which the proliferation risk is minimal at the very most. Now, those questions are somewhat more difficult to deal with for the reason that beyond the general parameters of constructive engagement, particularly in the nuclear area, we want to encourage the South Africans to open up their nuclear establishment to ever greater inspection and safeguards which certainly is an objective.

If we want to continually encourage South Africa to move toward a final adherence to the NPT or acceptance at least of full-scope safeguards even without the NPT, we have to have some basis for discussion with them, some basis for a dialog on these issues.

As you know, in respect to a particular question which I had the honor of testifying before the committee on some weeks ago, we were rather heartened that in fact in respect to some of these matters the South Africans had been showing a substantial willingness to allow people from the United States to actually—I think I would not say "inspect"—the facilities but certainly to visit them and observe them. So that the facilities and their purposes were obviously being made available to us in a very broad sense.

Now, this is a step, it seems to us, in quite the right direction. So that it is a difficult thing.

The CHAIRMAN. That is fine.

Mr. KENNEDY. Now, let me say to the hot isostatic presses, if they are large ones again there is a clear proliferation risk.

The CHAIRMAN. That is right.

Mr. KENNEDY. Their export is not permitted. Indeed, we go to other suppliers and urge that they too proscribe the exports.

The CHAIRMAN. I think the reason that we are all so concerned is that if there is a detention by South Africa and we have engaged in dual-use exports to them—despite the fact we have used strenuous efforts to prevent other clearly nuclear, solely nuclear, exports to South Africa—the perception among 49 countries will be that the United States has been responsible for that detonation. That perception, the South Africans must understand, will be there.

They must understand why we have to be very, very tough about this. We cannot endanger our relationship with a continent such as Africa and 49 countries to have relationships of some sorts with South Africa.

The Congress is going to be very tough on this particular issue and back you up totally if you would see fit to do everything you could to cut those possible exports off.

I have a couple of other questions I would like to ask you to facilitate matters so we can move right along. Maybe you can make a very brief comment on them and I will keep my questions brief, hopefully. We will keep the record open so that you can expand on the answers because some of them may be important.

How does the export of Helium-3 and other dual-use items fit into the nonproliferation policy?

Mr. KENNEDY. As I indicated, they are considered at all times in the policy.

The CHAIRMAN. Do you believe that there are any circumstances under which South Africa might be willing to sign the NPT?

Mr. KENNEDY. Senator, I would be disingenious if I said I thought that was going to happen any time soon.

The CHAIRMAN. Are we doing everything we can to encourage them?

Mr. KENNEDY. We are certainly doing so and we make it clear to them on every occasion that we meet with them.

The CHAIRMAN. Do you think they will ever accept full-scope safeguards?

Mr. KENNEDY. I do not rule that out. I do not think that it is going to be in the near future.

The CHAIRMAN. You do not rule it out. What concessions are they prepared to make to accommodate U.S. nonproliferation concerns?

Mr. KENNEDY. As I indicated, Senator, we have had some indication that they are prepared to be more forthcoming in allowing us to visit, to observe, some of their nuclear installations and activities.

I cannot tell you how far we can push that, I do not know because I have not pursued it. I intend to do so and would of course keep the committee fully informed of our progress.

The CHAIRMAN. On November 18, the Washington Post reported that a senior Department of Energy official sharply criticized the American nuclear industry for its lack of interest in nuclear reprocessing. The report went on to suggest that the Energy Department has proposed budgeting $250 million to buy plutonium from the Barn-

well reprocessing plant as an incentive for industry to complete the plant.

Do you believe it appropriate for the administration to literally be in the position of prodding the nuclear industry into developing proliferation of sensitive technologies when the industry itself has little interest in this technology?

Mr. KENNEDY. Senator, I am not fully familiar with it. I am aware of the statement that was made. I am not fully familiar with all the reasoning that lay behind it.

Let me just say that, as to Barnwell or any major reprocessing facility, it seems to me that we have some advantage in developing a workable and safeguardable, and protected facility. It is going to happen. It is happening elsewhere.

As you know, there are reprocessing facilities in France. There are reprocessing facilities in Japan. This is going to happen. If it is going to happen, it needs to happen under the most rigidly safeguarded conditions. One of the ways that one can develop that is through a major developmental effort to actually find out how to do it most effectively, how to control it most effectively.

I think we have a contribution to make there. Now, I would not comment on the question of encouraging the industry by buying a quarter of a billion dollars worth of plutonium. Here, I think, the industry ought to consider its own interests. I am not sure that buying $250 million worth of plutonium is necessarily the way to get at what I am talking about.

The CHAIRMAN. But does it not appear from this report that there seem to be no substance to claims by administration officials that the development of reprocessing was previously stifled by Government policy rather than by the lack of business interest? And here Government is prodding the private sector to get interested.

Mr. KENNEDY. Let me say that I think that both things may have been true, Senator. I think that as a matter of fact it is simply true that in the economic sense, given the availability of uranium at the price that uranium is available now, together with a slackening of demand for electric power which has appeared over the last 3 or 4 years, there has been a lessened, certainly lessened incentive to move into development of this further step in energy source development.

On the other hand, it is also true, I think, that the policies of the preceding administration in respect to reprocessing—which simply proscribed it by national policy—probably also tended to diminish any incentive the industry may have had.

I do not think it is necessary, as a practical matter, that we go out at this point to encourage it. It is simply a question of finding a way that a technology can be developed safely and in a safeguarded way.

The CHAIRMAN. If we do get into reprocessing and breeder reactor programs in the United States, would this not just encourage similar programs in a number of other countries? How could we say to them, "Do not get into this" if we get into it?

Mr. KENNEDY. Senator, I do not think that necessarily follows, it has not. As a practical matter, as I have indicated, we have not. Others have.

The CHAIRMAN. Well, there are not many, though.

Mr. KENNEDY. No, but nor do I think there need to be very many more. It is, after all, very largely an economic decision at some point for countries to make. It is a very expensive proposition, it is a very expensive route to go. And it is a dangerous route to go unless there exists the capability to safeguard and protect these facilities properly.

We know that. Those who are in the business now who are doing it understand that and together, I think, we can work to assuring that others do not take this step. It simply would be nonsensical for them to do so.

Now, that does not mean—and I think this is an important consideration that we need to think about going down the road—this does not mean that we try to prevent the benefits of this kind of technology from being available to others, but rather find ways the benefits can be realized without actually engaging themselves in the process. This means some sort of regional system under the proper safeguards and in countries, in situations, where the proliferation risk is nil.

The CHAIRMAN. Senator Glenn was not able to be here this morning. We work together on both this committee and Governmental Affairs where we introduced the legislation and reported out the Nuclear Non-Proliferation Act.

But we are concerned about the enthusiasm for nuclear fuel cycle projects because it would literally mean that more plutonium would be entering world commerce, having to be shipped around from place to place. Certainly, in the hearings we have held, very responsible people—from the nuclear industry as well as nuclear scientists—feel that the risk of terrorist attack on these shipments is something that simply cannot be ignored.

Imagine the pandemonium and terror we would have in this country if several bombs worth of separated plutonium were stolen, and it is highly possible.

Do you agree that we should not allow plutonium to be shipped unless we know—we literally know—that it will be a secure shipment? Are you spending much time looking into this problem?

Mr. KENNEDY. Yes, sir, I agree completely and we indeed are directly involved in that problem.

The CHAIRMAN. The rest of our questions we will submit for the record. I want to thank you very much indeed. You have my full support for this important position. We appreciate your taking it and look forward to working with you very closely on this paramount issue facing mankind.

Thank you very much.

Mr. KENNEDY. Thank you, Senator.

The CHAIRMAN. There may be questions from a few other committee members, also. We will keep the record open for that purpose.

Mr. KENNEDY. Thank you, sir.

The CHAIRMAN. Thank you very kindly.

[The committee then proceeded to other business.]

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The CHAIRMAN. We will adjourn the hearing and go immediately into executive session.

[Additional questions and answers follow:]

STATE DEPARTMENT'S RESPONSES TO ADDITIONAL QUESTIONS SUBMITTED BY SENATOR PERCY

Question 1. IAEA Director-General Hans Blix told the U.N. General Assembly last month that he believes that the IAEA safeguard system can offer important lessons for improving compliance with and verification of arms control agreements.

(A) Do you agree with Dr. Blix's conclusions?

(B) Do you see the IAEA safeguards structure as providing guidance in the development of arms control confidence building measures?

(C) Do you know if anyone in the arms control community has examined the IAEA safeguards system for the lessons it could offer arms controls?

Answer. (A) I agree with his oft-repeated statement that the IAEA inspection system is the only example to-date whereby sovereign states have voluntarily accorded to an international agency the right of access to national systems and facilities as well as the right to inspect and pass judgment upon national activities. Some of the legal and operational aspects of the IAEA safeguards system are useful examples for possible verification regimes in other arms control areas.

(B) Possibly. The experience gained and lessons learned over the past 25 years in establishing and implementing the IAEAs safeguards system do provide useful guidance. Of course, under the NPT the nuclear weapons states were and are exempted from mandatory safeguards inspections. Further, the system was designed to inspect civil facilities only. Nevertheless, this broad base of experience in onsite inspection and verification may have some application to other arms control areas.

(C) The arms control community has examined, and is continuing to examine, the IAEA systems of accountancy and onsite inspection of nuclear facilities and its use of onsite sensors in preparing our positions on cooperative measures for verification in START, INF and other ongoing arms control negotiations.

Question 2. Will you be visible to the public in this job? Will you speak out often on nonproliferation issues? I would like to see you do this. I hope very much that the American people—and leaders of nations throughout the world—will see you as a tough fighter for the nonproliferation cause.

Answer. Mr. Chairman, my instructions are to speak out publicly on our nuclear nonproliferation policy, our objectives and the means we propose to use to obtain them. I intend to keep a high profile on this vital issue.

Question 3. Mr. Kennedy, in your statement you said, and I think I am quoting you correctly, that "we will never compromise nonproliferation objectives for commercial advantage." I appreciate your sincerity in making this statement, and I was quite pleased to hear it. But I should say, in all candor, that the impression conveyed to date by this Administration is quite different. Too many people, thoughtful people, including several I have heard from in Illinois, are concerned that our nonproliferation goals have been compromised in the interest of commercial gain. This is starting to get woven into broader public concerns about arms control issues, and is becoming a complicating factor. How can we change that impression—and how do you you propose to use your new position to accomplish this?

Answer. I regret to say, Mr. Chairman, that I agree with you. Too many people have misunderstood and have misinterpreted President Reagan's nonproliferation policy. Those incorrect impressions must be changed. I regard it as a responsibility of my new office to explain and clarify the President's policy to the press, to the Congress, and ultimately to the American people. We have to accept the responsibility for the fact that there is such a broad misunderstanding and misinterpretation of the President's policy. I intend to speak out publicly to set the record straight in the months ahead. Naturally, I stand by the promise contained in my prepared statement: We will never compromise our nonproliferation principles for commercial or economic advantage.

Question 4. In May 1980, as a Nuclear Regulatory Commissioner, you urged caution in the development and transfer of plutonium-related elements of the fuel cycle. At that time, you stated: "When pure plutonium is involved, it can be converted to weapons use in a matter of days, thus virtually negating the likelihood of detection through technical safeguards."

(A) Mr. Kennedy, have you changed your views since May 1980?

(B) Do you believe that the Administration's decisions in the area of plutonium-use take sufficient account of the danger raised in your statement?

(C) Do you believe that one can be a reliable supplier while denying plutonium-related exports?

Answer. I continue to believe that there are great nonproliferation challenges associated with use of plutonium in the civil nuclear fuel cycle. This Administration recognizes the serious risks associated with reprocessing and other sensitive technologies and the need for great caution and restraint in dealing with them. At the same time, we recognize that cooperation among the advanced nuclear countries is essential if we are to succeed in strengthening the global nonproliferation regime. The Administration's approach toward reprocessing and plutonium use has been carefully developed with both of these objectives in mind.

Accordingly, the President has decided on a limited approach toward the reprocessing of material subject to U.S. consent rights and the use of plutonium derived from that material in countries with advanced nuclear programs which pose no proliferation risk.

Specifically, we are offering Japan and the countries of EURATOM new, long-term arrangements for implementation of U.S. consent rights over the reprocessing and use of material subject to our agreements for peaceful nuclear cooperation. These countries have well defined and coherent, advanced programs where reprocessing and plutonium use do not constitute a proliferation danger. These offers are being made in the context of seeking new or amended peaceful nuclear cooperation agreements with Japan and EURATOM, which would be subject to Congressional review. Our willingness to take these steps presumes the continued strong commitment of these countries to our common nonproliferation efforts and to developing and implementing more effective controls over plutonium. Our policy does not endorse or encourage the spread of reprocessing and plutonium; it recognizes that major programs already exist and that we must work realistically with our most important allies to insure vigorous safeguards and controls over sensitive technology and materials, and to otherwise advance our nonproliferation objectives.

Clearly there are major challenges ahead in assuring adequate IAEA safeguards for nuclear activities involving the use of plutonium in Japan and EURATOM. But we cannot meet that challenge by trying to force these countries to eschew steps or options they regard as essential to their future energy security. On the contrary we believe that our cooperative approach is a credible and realistic way to obtain the international support needed to achieve our vital safeguard objectives.

This policy acknowledges that our allies with advanced nuclear programs which pose no proliferation risk must be distinguished from others. Such a distinction is based upon genuine differences between countries, and we need to tailor our policies to deal with those differences. Past efforts to challenge the carefully considered programs of Japan and EURATOM countries led only to rancorous debates which soured our relations with key allies without enhancing our nonproliferation goals. At the same time we must and we will continue to hold the line against the spread of sensitive nuclear activities particularly where the danger of proliferation demands.

The United States is and will be a reliable supplier of nuclear material and equipment where our statutory requirements are met and where we determine supply does not create a proliferation risk. We do not believe being a reliable supplier requires that we provide sensitive exports, such as plutonium, where we believe this would create a proliferation risk.

State Department's Responses to Additional Questions Submitted by Senator Glenn

Question 1. The press has reported that the Administration has exchanged diplomatic notes with India concerning the replacement by France of the United States as a nuclear fuel supplier for the Tarapur reactors.

(a) When were the draft notes prepared and submitted to the Indians?

(b) On what date were the notes signed?

(c) Was anyone in Congress consulted concerning the content of the notes or the content of the Indc-French agreement?

(d) Since the notes can be viewed as amending the U.S.-Indo Agreement for Cooperation, is it your intention to submit the notes or a formally amended agreement for Congressional review?

(e) Do you believe the Congress was kept "fully and currently informed" on this matter in accordance with the requirements of the NNPA?

(f) What is the present status of U.S. supplied spent fuel under the new agreement?

(g) What is the view of the Indians regarding the status of United States and French spent fuel after 1993 as far as safeguards is concerned?

(h) What is the Indian view regarding rights possessed by the United States and/or France concerning the reprocessing of United States and/or French spent fuel?

(i) Have the Indians agreed to have safeguards applied to any facility in which French fuel or products derived from French fuel after irradiation are located?

Answer. (a) The draft notes were submitted to the Indians on July 29, 1982, and were prepared in the period immediately before then.

(b) The notes were exchanged on November 30, 1982.

(c) The substance of the arrangement was discussed in consultations during the week of July 19, 1982, with Chairman Percy as well as with Senators Pell and Glenn. The notes memorialize the arrangement that was described in the consultations. Chairman Zablocki and several members and staff of the House Foreign Affairs Committee were also consulted.

(d) We do not view the notes as amending the U.S.-India agreement for cooperation, and thus the procedure for Congressional review under section 123 of the Atomic Energy Act does not apply. Rather, the United States and India have only waived the obligation of the United States to sell, and that of India to purchase, all the enriched uranium needed for Tarapur. These waivers are recorded in the exchange of notes, which also reflects the understanding of both countries that the reactors will be operated on French-supplied low enriched uranium. The agreement for cooperation will remain in effect in all other respects. This is a special solution tailored to a unique situation (the U.S./India agreement is the only one with exclusive U.S. fuel supply provisions). We will of course submit the U.S.-India exchange of notes to the Congress under the Case Act as soon as we hape a certified text.

(e) Yes.

(f) There has been no change in the status of U.S.-supplied spent fuel.

(g) Indian officials have taken the public position that India's legal obligation to accept safeguards at Tarapur would terminate upon expiration of the U.S.-India agreement for cooperation in 1993. Our view is that safeguards on United States and French supply continue so long as material remains usable for any nuclear activity relevant from the point of view of safeguards. We expect the Government of India to engage in a constructive dialogue on this issue and not to take unilateral action.

(h) Indian officials have expressed the view that the United States has essentially delegated its right to the IAEA to participate in the joint determination of the parties that the article of the agreement that includes safeguards provisions may be effectively applied, a joint determination which is a necessary prerequisite to reprocessing under the U.S.-India agreement for cooperation. They have expressed the view that since the IAEA has concluded safeguards arrangements with India covering the Prefere Reprocessing Facility, India is free to proceed with reprocessing there. Our view is that it is clear that there must be a joint determination of the parties—both India and the United States—before any reprocessing may take place and that the United States has not agreed to such determination or delegated the authority to agree to such a determination. We expect the Government of India to engage in a constructive dialogue on this issue and not to take unilateral action.

(i) France and India have agreed that French supply will be within the framework of the U.S.-India agreement for cooperation and that the safeguards provided for in that agreement and in the 1971 trilateral safeguards agreement among India, the United States and the IAEA will govern. The application of safeguards to material derive from supplied fuel is provided for in these agreements.

Question 2. At your confirmation hearing, Senator Percy noted the difficulty of providing adequate physical protection for plutonium shipments. What measures, specifically, do you believe are necessary to protect international shipments by sea of separated plutonium in the 100 kilogram range of the kind being proposed by Japan? In particular, what sorts of threats should be protected against?

Answer. The physical protection of civil plutonium shipments is of great concern to us. We have worked, and continue to work, closely and actively with other interested nations, and in the IAEA to develop appropriate physical protection guidelines for such shipments. Specific to the proposed shipment of plutonium to Japan over which the United States has consent rights, I believe that steps must be taken to protect against acts such as terrorism on the high seas,

and hijacking by other vessels or by the crew of the ship on which the material is being transported. These steps include ensuring adequate continuous communications with the ship, escorts who are responsible for knowing the status of the cargo at all times, and ensuring that an adequate plan exists to respond to major problems of the kind I have alluded to that might arise during shipment.

STATE DEPARTMENT'S RESPONSES TO ADDITIONAL QUESTIONS SUBMITTED BY SENATOR CRANSTON

Question 1. Shortly after returning from her visit to Washington in July 1982, Prime Minister Gandhi told the Indian Parliament that reprocessing of the Tarapur spent fuel ". . . will be done as and when necessary . . . The Americans have a different view on it . . . but it makes no difference to use . . ."

What is the United States understanding of the conditions which must be satisfied before the U.S. supplied fuel can be reprocessed? To what extent does India share this view? If there are differences, what reason do you have for believing that the U.S. view will prevail?

What is the United States understanding of the conditions which would apply to any reprocessing of the French-supplied fuel? Would the consent of the United States be required? Would that of France be required? Would the consent of both France and the United States be needed?

Answer. The U.S.-India Agreement for Cooperation provides that any special nuclear material produced at the Tarapur Atomic Power Station may only be reprocessed in Indian facilities upon a joint determination by the parties—both India and the United States—that the article of the agreement that includes safeguards provisions may be effectively applied. It is clear that there must be a joint determination and the United States has not agreed to such a determination or delegated the authority to agree to such a determination. Indian officials, however, have expressed the view that the United States has essentially delegated its joint determination rights to the IAEA; and, since the IAEA has concluded safeguards arrangements with India covering the Prefere Reprocessing Facility, India is free to proceed with reprocessing there. We believe that we have the more compelling legal position on this matter.

The U.S. reprocessing consent right referred to above also applies to French supplied fuel. French consent is not required.

We had a full and frank discussion of this issue at the time of Mrs. Gandhi's visit. We expect the Government of India to engage in a constructive dialogue on this issue and not to take unilateral action.

Question 2. Foreign Minister Rao told the Indian Parliament on August 13, 1982 that:

". . . In regard to what happens after 1993, our view is very clear. It is that after 1993 nothing remains. There is no question of pursuit. There is no question of this stuff being subjected to anything. Therefore, after 1993 there is nothing left to pursue. The whole agreement just lapses, and, therefore, the obligations, the duties or whatever is envisaged in the agreement would lapse automatically . . ."

What is the U.S. understanding of the duration of the safeguards which are applicable to the United States and French supplied fuel?

To what extent does India share this view?

If the Indian view is different, what reason do you have for believing that the U.S. view would prevail?

Answer. Safeguards on U.S. and French supply continue so long as material remains usable for any nuclear activity relevant from the point of view of safeguards. This is fundamental to and inherent in cooperation for peaceful nuclear purposes, and the U.S.-India agreement has that legal effect. Indian officials have taken the public position that India's legal obligation to accept safeguards at Tarapur would terminate upon expiration of the U.S.-India agreement in 1993. Again, we believe that we have the more compelling legal position. We also had a full and frank discussion of this issue at the time of Mrs. Gandhi's visit. We expect the Government of India to engage in a constructive dialogue on this issue and not to take unilateral action.

Question 3. What is the U.S. understanding of the "pursuit" rights (whether safeguards apply to material derived from the U.S. or French-supplied fuel) of the United States and France under the Agreement for Cooperation with India?

To what extent does India agree with this view?

If India disagrees with the U.S. position, what reason do you have for believing that the U.S. interpretation will prevail?

Answer. The application of safeguards to material derived from supplied fuel is provided for under the U.S.-India Agreement for Cooperation and the 1971 trilateral safeguards agreement, and will also apply to French supplied fuel. To the best of my knowledge, India has never raised this issue with us.

Question 4. Why did the State Department not consult this Committee prior to entering into the commitments embodied in the notes which this Committee understands were signed in New Delhi on November 30, 1982?

Answer. The substance of the arrangement was discussed in consultations during the week of July 19, 1982, with Chairman Percy as well as with Senators Pell and Glenn. The notes exchanged on November 30, 1982, memorialize the arrangement that was described in the consultations. Chairman Zablocki and several members and staff of the House Foreign Affairs Committee also were consulted.

Question 5. Does the United States have any further control over the sale of uranium by France to India? Has France agreed to be bound by the United States interpretation of the 1963 Agreement for Cooperation?

If India were, in the United States view, to violate the 1963 Agreement, as for example by reprocessing U.S. supplied fuel in the absence of a joint U.S.-Indian determination of safeguardability, would France terminate the supply of fuel for Tarapur?

Would France, like the United States terminate the supply of fuel for Tarapur if India were to detonate another nuclear explosion?

Answer. France and India have agreed that French supply to India will be within the framework of the U.S.-India Agreement for Cooperation. France has fully endorsed the U.S. interpretations of the U.S.-India Agreement for Cooperation, described above, relating to French supply. French actions in response to unilateral Indian reprocessing or detonation of a device would be the subject of consultations between our two governments.

Question 6. What assurances does the United States have that safeguards will continue to be applied to the U.S. supplied fuel and that this fuel will not be reprocessed without U.S. consent?

Answer. Safeguards on U.S. and French supply continue so long as material remains usable for any nuclear activity relevant from the point of view of nuclear purposes, and the U.S.-India agreement has that legal effect. Indian officials have taken the public position that India's legal obligation to accept safeguards at Tarapur would terminate upon expiration of the U.S.-India agreement in 1993. Again, we believe that we have the more compelling legal position. We had a full and frank discussion of this issue at the time of Mrs. Gandhi's visit. We expect the Government of India to engage in a constructive dialogue on this issue and not to take unilateral action.

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The U.S. reprocessing consent right referred to above also applies to French supplied fuel. French consent is not required.

We also had a full and frank discussion of this issue at the time of Mrs. Gandhi's visit. We expect the Government of India to engage in a constructive dialogue on this issue and not to take unilateral action.

Question 7. Does the 1974 exchange of notes between the United States and India which provides that the U.S. supplied fuel may be used only for "the needs of the Tarapur station" apply beyond 1993? To what extent does this exchange apply to the French-supplied fuel?

Answer. The 1974 exchange of notes does apply beyond 1993, and also applies to the French supplied fuel.

[Whereupon, at 11:30 a.m., the committee adjourned, to proceed with other business.]

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